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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Advanced Television Systems )  
and Their Impact upon the )  
Existing Television Broadcast )  
Service )

MM Docket No. 87-268

**OPPOSITION OF BLACKSTAR COMMUNICATIONS, INC. TO  
PETITION FOR RECONSIDERATION OF RAPID BROADCASTING COMPANY**

Blackstar Communications, Inc. ("Blackstar"), the licensee of KIVV, Lead, South Dakota, a satellite station of KEVN, Rapid City, South Dakota, by its attorneys, hereby opposes the "Petition for Partial Reconsideration" ("Petition") filed by Rapid Broadcasting Company ("RBC") on May 20, 1997, in the above-captioned proceeding. RBC is the licensee of low power television ("LPTV") station KNBN-LP in Rapid City, South Dakota, and is the permittee of LPTV Stations K27ED and K31DK, also in Rapid City South Dakota. For the reasons set forth below, RBC's Petition should be denied.

In the Sixth Report and Order,<sup>1/</sup> the Commission adopted a new, nationwide, Digital Television ("DTV") Table of Allotments and Assignments (the "new DTV Table") which assigned DTV channels to all "eligible" broadcasters.<sup>2/</sup> Because of the complexity of

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1/ Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, MM Docket No. 87-268, FCC 97-115, Sixth Report and Order (released April 21, 1997) ("Sixth Report and Order").

2/ Under the Fifth Report and Order, the Commission determined that "[i]nitial eligibility [for a DTV license] should be limited to those broadcasters who, as of the date of the issuance of the initial licenses, hold a license to operate a television broadcast station or a permit to construct such a station, or

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the DTV allocation and assignment methodology, and because of the limited spectrum available for DTV allotments and assignments, displacement of some LPTV stations was necessary in order to achieve full accommodation of all eligible stations in the new DTV Table. In recognition of the impact on translator and LPTV service, the Commission implemented a number of measures to mitigate the adverse impact of DTV implementation on LPTV and translator stations, so that the great majority of these stations will be able to continue to operate.<sup>3/</sup>

While the Commission adopted these measures, it reiterated the long-standing policy that LPTV and television translator stations are authorized only on a secondary basis. The Commission has steadfastly maintained this approach towards low power service. As noted in the Sixth Report and Order, the

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2/ (...continued)

both." It decided to further limit eligibility to existing full-power broadcasters, because "there is insufficient spectrum to include LPTV stations and translators, which are secondary under our rules and policies, to be initially eligible for a DTV channel." Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, MM Docket No. 87-268, FCC 97-116, Fifth Report and Order, ¶¶ 17-18 (released April 21, 1997) ("Fifth Report and Order").

3/ Specifically, the Commission indicated:

With regard to LPTV and TV translator stations, we continue to believe that the principal impact on low power operations will be from the accommodation of all full service broadcasters with a second channel for DTV. Further, we find that the potential benefits of recovering channels 60-69, as discussed above, outweigh any additional impact this plan may have on low power operations. Nevertheless, as we discuss below at paragraphs 141 to 146, we are taking a number of significant steps to mitigate this impact. Sixth Report and Order, ¶ 81

Commission's decisions on this issue have been upheld on judicial review.<sup>4/</sup> The Commission re-examined the policy in this proceeding, but explicitly concluded that LPTV and TV translator stations should retain their secondary allocation status.<sup>5/</sup>

Essentially, in a tail-wagging-the-dog fashion, RBC requests that the Commission now extensively revisit the new DTV Table, by changing the DTV channel assignments of no less than six full-power television stations<sup>6/</sup> in order to avoid any impact on RBC's secondary-service LPTV station. Moreover, RBC fails to indicate in its Petition whether there are alternative channels available for its single, operating LPTV station, and two construction permits.

Given the highly interdependent and interconnected nature of the various technical parameters which constitute the DTV Table, no change in the Commission's initial DTV channel assignments can be made without first considering the broader implications of any such change on other DTV channel assignments. RBC ignores this fundamental reality. Its proposal to reassign six full-service stations to alternate DTV channels suggests that such reassignments are as easy and risk free as the rearrangement of deck furniture. Yet the practical effect of granting RBC's

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4/ See Polar Broadcasting v. F.C.C., 22 F.3d 1184 (D.C. Cir. 1994).

5/ Sixth Report and Order, ¶ 81.

6/ KOTA-TV (Channel 3, DTV Channel 22), KHSD-TV (Channel 11, DTV Channel 27), KBHE-TV (Channel 9, DTV Channel 23), KCLO-TV (Channel 15, DTV Channel 16), KIVV-TV (Channel 5, DTV Channel 26), and KPSD-TV (Channel 13, DTV Channel 24).

request would be much more complicated and problematic. Indeed, any change along the lines proposed by RBC would either require additional changes in the new DTV Table far beyond those affecting the six full-power stations, with each change having its own "daisy chain" effect throughout the DTV Table, or significantly alter the replication, coverage area and interference parameters of the DTV Channels currently assigned to the six full service stations.

Even if RBC's request could be accommodated after numerous adjustments to the DTV Table, RBC is not the only LPTV petitioner seeking this type of relief.<sup>7/</sup> Other LPTV licensees have requested many changes in the DTV channel assignments to full-service licensees. Grant of RBC's request would open a virtual "pandora's box" of widespread changes in the initial DTV Table.

The Commission has already determined that the public interest is best served by affording full accommodation only to eligible licensees -- i.e., full-service television licensees. In so doing, the Commission engaged in the appropriate balancing of interests between the benefits to full service television and the impact on LPTV service. The Commission rightly concluded that LPTV service would be preserved to the maximum extent possible. However, preservation of LPTV service is not the

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7/ See petitions filed by Montgomery Communications, Inc., Alaska Broadcast Television, Max Trevino, South Central Communications Corporation, Capital Television Corporation, Entravision Holdings, LLC, Warwick Communications, Inc.

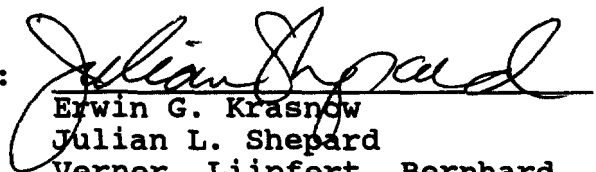
driver for determining DTV channel assignments. The Commission should resist RBC's and other such back-door attempts to revisit these fundamental policy issues.

For the foregoing reasons, Blackstar urges the Commission to deny RBC's request to reassign the DTV channels allotted to stations KIVV-TV, KOTA-TV, KHSD-TV, KPSD-TV, KBHE-TV, and KCLO-TV in order to accommodate RBC's LPTV facilities.

Respectfully submitted,

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July 18, 1997

**CERTIFICATE OF SERVICE**

I, Bridget Y. Monroe, hereby certify that on this 18th day of July, 1997, caused a copy of the foregoing "Opposition of Blackstar Communications, Inc. to Petition for Reconsideration of Rapid Broadcasting Company" to be served by first class mail, postage prepaid to:

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